

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

**UNITED STATES OF AMERICA,**

Case No. 2:17-CR-395 JCM (NJK)

**Plaintiff(s),**

## ORDER

V.

WENDY FLORES-RAMIREZ, et al.,

Defendant(s).

Presently before the court is defendant Felix Shelby, Jr.'s motion for reconsideration of Magistrate Judge Foley's restraint order. (ECF No. 25). The government has not filed a response, and the time for doing so has since passed.

A district judge “may reconsider any pretrial matter [adjudicated by the magistrate judge] . . . where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A); LR IB 3-1(a). The district judge may “affirm, reverse or modify, in whole or in part, the ruling made by the magistrate judge.” LR IB 3-1(b). Under the “clearly erroneous” standard, the magistrate judge’s ruling must be accepted unless, after a review of the record, the court is “left with the definite and firm conviction that a mistake has been committed.” *United States v. Silverman*, 861 F.2d 571, 576-77 (9th Cir.1998).

23       Defendant cites *United States v. Sanchez-Gomez*, 859 F.3d 649 (9th Cir. 2017) for the  
24 proposition that a defendant must be free from restraint unless there is “evidence of disruptive  
25 courtroom behavior, attempts to escape from custody, assaults, or attempted assaults while in  
26 custody, or a pattern of defiant behavior toward correction officials and judicial authorities.” (ECF  
27 No. 25).

1 On May 14, 2018, the United States Supreme Court vacated the judgment of the Ninth  
2 Circuit in *Sanchez-Gomez* and remanded the case with instructions to dismiss as moot. As  
3 defendant's argument relies exclusively on the now-vacated *Sanchez-Gomez* decision, the court  
4 will deny defendant's motion.<sup>1</sup>

5 | Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's motion for reconsideration (ECF No. 25) be, and the same hereby is, DENIED.

8 DATED July 2, 2018.

Xem C. Mahan  
UNITED STATES DISTRICT JUDGE

<sup>1</sup> Further, Magistrate Judge Foley's order demonstrates that he considered defendant's individual circumstances, including his criminal history, when determining the appropriate level of courtroom restraints. *See* (ECF Nos. 4, 7).